

# LAWS AND REGULATIONS RELATING TO

## The Kentucky State Board for Proprietary Education



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The statutes and regulations provided in this booklet are an **unofficial** version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.

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## Kentucky Revised Statutes

### **165A.310 Definitions for KRS 165A.320 to 165A.410.**

(1) "Proprietary school" or "school" means any privately owned educational institution, establishment, agency, organization, or person offering or administering a plan, course, or program of instruction in business, trade, technical, industrial, or related areas for which a fee or tuition is charged whether conducted in person, by mail, or by any other method.

(2) "Board" means the State Board for Proprietary Education.

(3) "Cabinet" means the Cabinet for Workforce Development.

(4) "Agent" means any person employed by an institution to act as agent, solicitor, broker, or independent contractor to procure students for such school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school.

(5) "Degree" means associate degree.

(6) "Person" means an individual, corporation, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

(7) "School year" is beginning the first day of July and ending the thirtieth day of June next following except when approval shall be suspended or canceled pursuant to the provisions herein.

(8) The definition of a proprietary school shall not include the following:

(a) A school or educational institution supported entirely or partly by taxation from either a local or state source;

(b) A parochial, denominational, or eleemosynary school or institution;

(c) A school or training program which offers instruction solely in the field of an avocation, recreation, or entertainment, as determined by the state board;

(d) A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees for the benefit of the employer and without charge to the employee;

(e) A school or educational institution licensed or approved by or a course or courses of study or instruction sponsored by the Kentucky Board of Barbering established by KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists established by KRS 317A.030, the Kentucky Board of Nursing established by KRS 314.121, and the State Board of Embalmers and Funeral Directors of the State of Kentucky established by KRS 316.170.

### **165A.320 Applicability of KRS 165A.310 to 165A.410.**

KRS 165A.310 to 165A.410 shall not apply to any institution offering a four (4) year college level course recognized by the Council on Postsecondary Education nor shall it apply to any religious or nonprofit institution exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 164.945. KRS 165A.310 to 165A.410 is intended to apply to and regulate proprietary schools including but not limited to correspondence schools which are operated as or are organized for profit, whether profit is ever realized.

### **165A.330 License required -- Applications.**

(1) No person shall conduct, operate, maintain, or establish a proprietary school as herein defined or use any words which designate or tend to designate to the public that the operator of the school is qualified to conduct, operate, and maintain the school, unless he holds a valid current license from the board.

(2) Completed applications for a license shall be filed with the board thirty (30) working days prior to being considered by the board.

(3) Renewal applications shall be filed with the board by May 15, prior to the June 30 expiration date.

(4) The school owner shall notify the board if any personnel involved in the applicant school has ever been associated as owner, partner, director, or other administrator with a school that has had its license revoked or that has closed and caused students a loss of money. The board may consider this information in granting, renewing or revoking a license.

(5) No person shall in any way solicit any person or group of persons in this state to enroll at or attend any such school unless the person holds a valid license as agent of the school for which he is soliciting.

**165A.340 State Board for Proprietary Education -- Membership -- Terms -- Meetings -- Powers -- Compensation.**

(1) There is hereby established a State Board for Proprietary Education which shall be attached to the Cabinet for Finance and Administration, Department for Administration, Division of Occupations and Professions and shall consist of eleven (11) voting members to be appointed by the Governor as follows:

(a) Three (3) members representative of privately owned educational institutions appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;

(b) Three (3) members representative of technical schools appointed from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools; and

(c) Five (5) members representative of the public at large.

(2) The term of each member shall be four (4) years or until a successor is appointed. If a vacancy occurs on the board, a new member shall be appointed to serve the remainder of the unexpired term.

(3) The director of the Division of Occupations and Professions in the Finance and Administration Cabinet shall serve as executive director of the board. Members of the board shall annually elect one (1) of their number as chairman. The board may make all rules and regulations, including the establishment of fees and other charges consistent with the provisions of this chapter, as may be necessary to carry out the provisions and purposes of this chapter.

(4) The board shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places as the board may designate and the majority of the members shall constitute a quorum.

(5) The board may sue and be sued in its own name.

(6) The members of the board shall receive one hundred dollars (\$100) per day for each meeting attended and may be paid their travel and other expenses while employed upon the business of the board.

(7) The board shall administer the provisions of law pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.

(8) The board shall have the power to subpoena witnesses and school records as it deems necessary.

**165A.350 Requirements for agent's permit -- Bond -- Conditional license -- Renewal -- Owner's liability for actions of agents.**

(1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless the school shall have been issued by the board a certificate of approval or a certificate of registration pursuant to KRS 165A.310 to 165A.410 and the person shall have been issued an agent's permit for said proprietary school.

(2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the board.

(3) Except as otherwise provided, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the board, and unless the application shall be accompanied by a fee as established by the board and a good and sufficient surety bond or other collateral as required by the board but not less than five thousand dollars (\$5,000).

(4) (a) The surety bond or other collateral shall be conditioned to provide indemnification to any student or enrollee who shall suffer loss or damage as a result of fraud or misrepresentation to the student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by the proprietary school. The amount of liability on the surety bond or other collateral shall cover each agent each school year, as the term "school year" is defined in KRS 165A.310. Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall not exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the board a duly verified claim against an agent. The board may consider a claim after ten (10) days' written notice by certified mail, return receipt requested, to the licensee of the complaint giving time and place of hearing thereon and if the claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on the bond and the surety thereon, and if not paid shall bring an action on the bond in any court of record within the State of Kentucky.

(5) The surety bond may be of blanket form to cover more than one (1) agent for a proprietary school, but it shall provide the required minimum coverage for each agent.

(6) A surety on the bond may be released therefrom after the surety shall make a written notice thereof directed to the board at least thirty (30) days prior to release.

(7) The surety bond shall cover the period of the agent's permit except when a surety shall be released in the manner provided herein.

(8) Notwithstanding the provisions of other sections, the board may issue an agent's permit to each person who is an owner of more than ten percent (10%) legal interest in a proprietary school located in this state and who is a resident of this state, and no owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section, if the proprietary school shall have been issued a certificate of approval pursuant to the provisions of KRS 165A.310 to 165A.410.

(9) The board may issue a conditional license on a monthly basis for up to a nine (9) month period of time.

(10) An agent's permit shall be suspended by operation of law when the agent is no longer covered by a surety bond or other collateral is withdrawn as required by KRS 165A.310 to 165A.410; but the board shall cause the agent to receive at least ten (10) days' written notice prior to the release of his surety to the effect that the permit shall be suspended by operation of law until another surety bond or other collateral shall be filed in the same manner and like amount as required by the board.

(11) An agent's permit shall be valid for a period of one (1) school year as herein defined, except when suspended or canceled pursuant to these provisions. An agent's permit may be renewed in the same manner and under the same conditions prescribed for the issuance of an initial agent's permit.

(12) The owner or owners of the proprietary school shall be held responsible for all actions of their agents when performing their duties as agents.

**165A.360 Certificate of approval -- Bond -- Suspension or renewal -- Transferability -- Voidable student contracts.**

(1) No person shall maintain or operate a proprietary school located and doing business within this state until said school shall have been issued a certificate of approval by the board pursuant to the provisions of KRS 165A.310 to 165A.410. No person shall maintain or operate a proprietary school located without this state and do business within this state until said school shall have been issued a certificate of approval or a certificate of registration by the board pursuant to the provisions of KRS 165A.310 to 165A.410. No certificate of approval shall be issued by the board to any proprietary school which denies enrollment in said school to any pupil, on account of race, color, or creed. The Kentucky Commission on Human Rights shall have power to make investigation as to discriminatory practices of any proprietary school, and shall report

thereon to the board, and said board shall, upon report that any such school is engaging in discriminatory practices, deny or suspend a certificate of such school, in accordance with the provisions of this section and after notice and public hearing as required herein.

(2) No proprietary school shall be issued a certificate unless it shall make application, through its officers or an owner, upon forms to be provided by the state board, and unless said application shall be accompanied by a fee as established by the board and a good and sufficient surety bond or other collateral in a penal sum of not less than twenty thousand dollars (\$20,000).

(3) (a) The surety bond or other collateral shall be conditioned to provide indemnification to any student or enrollee or his parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment or as a result of any fraud or misrepresentation as represented by the application for the certificate, or as a result of the student being unable to complete the course or courses because the school ceased operations. Such indemnification shall, in no case, exceed the advanced tuition paid or to be paid by said student or students or any such parent or guardian and regardless of the number of years that a school's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the board a duly verified claim against a proprietary school. The board may consider such claim after ten (10) days' written notice by certified mail, return receipt requested, to such school of said complaint giving time and place of hearing thereon and if such claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on such bond and the surety thereon, and if not paid may bring an action on such bond in any court of record within the State of Kentucky.

(4) A surety on said bond may be released therefrom after said surety shall have made a written notice thereof directed to the board at least thirty (30) days prior to said release.

(5) The surety bond shall cover the period of the certificate except when said surety shall be released in the manner as provided by this section.

(6) (a) The certificate shall be suspended by operation of law when said proprietary school is no longer covered by a surety bond or other collateral as required by this section; but the board shall cause said proprietary school to receive at least ten (10) days' written notice prior to the release of said surety to the effect that said approval shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as required for the initial surety bond.

(b) The certificate shall be suspended by operation of law at any time any certified proprietary school shall deny enrollment in said school to any pupil, on account of race, color, or creed.

(7) The application for a certificate shall be accompanied by such supporting documents as the board may require. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of said proprietary school.

(8) A certificate shall be valid for a period of one (1) school year. A certificate may be renewed in the same manner and under the conditions prescribed by the board.

(9) Certificates are transferable to another owner. If a change of ownership occurs, the new owner shall within ten (10) days, reexecute and affirm the application for certificate of approval or certificate of registration and the information therein, governing said certificate in effect at the time of sale. The board may establish a reasonable fee for the recording and processing of such changes.

(10) The bonding or other collateral requirements herein set forth may be reduced at the sole discretion of the board upon a showing by the proprietary school that they are excessive in the case of any particular proprietary school.

(11) (a) Contracts by and between a proprietary school operating or doing business within this state and a student are voidable at the option of the student unless said school has been previously issued a certificate by the board.

(b) No proprietary school operating or doing business within this state shall be entitled to any money collected from students, in whatever manner collected, unless said school has been previously issued a certificate by the board.

(c) Contracts by and between a proprietary school operating or doing business within this state which are entered into prior to the issuance of a certificate by the board, shall be voidable at the option of the student notwithstanding any subsequent issuance of a certificate to the school by the board.

(d) Restitution of any money paid by a student under a contract voided pursuant to this section, may be obtained through action brought by the student in either District Court or Circuit Court in the county of the student's residence or other appropriate court, at the option of the student.

**165A.370 Minimum standards and requirements -- Training requirements for administrators and instructors -- Records -- Financial statement -- Approval and denial of certificate -- Conditional license.**

(1) No proprietary school located or doing business in this state shall be issued a certificate under these provisions until the board shall have determined that the proprietary school is maintained, operated, or, in the event of a new proprietary school, that the school can be reasonably maintained and operated, in substantial compliance with the following minimum standards:

(a) That the instructional quality and content of each course or program of instruction or study shall be adequate to provide reasonable education and training to each enrolled student, and that the quality and content shall be consistent with the public interest.

(b) That the proprietary school has adequate space, equipment, instructional materials, and instructor personnel to provide training and preparation of the quality specified in paragraph (a) of this subsection.

(c) That the educational and experience qualifications of directors, administrators, supervisors, and instructors are satisfactory in terms of the quality of instruction specified in paragraph (a) of this subsection.

(d) That the administrators shall hold a baccalaureate degree from an accredited college or university, or demonstrate the appropriate training or experience related to the responsibilities of the position as determined by the board.

(e) That the instructors shall hold a baccalaureate degree from an accredited college or university in the area of teaching responsibility, or demonstrate appropriate training or experience related to the responsibilities of the position as determined by the board.

(f) That a copy of the course outline and a schedule of all tuition and fees, program completion rates, and program placement rates of the school's graduates for the preceding twelve (12) months be furnished each student applicant prior to enrollment. Federal guidelines on placement and graduation rates shall be used.

(g) That, as defined by board regulation, a diploma, associate degree, certificate, or other appellation shall be awarded to the student upon satisfactory completion of training by the proprietary school which indicates that the course or courses of instruction or study had been satisfactorily completed.

(h) That adequate records shall be maintained and available for inspection and shall include the following materials:

1. Current personnel forms;
2. Teacher evaluations;
3. Inventory of equipment and instructional material; and
4. Faculty transcripts.

(i) That separate files shall be maintained on each student and be available for inspection, and shall include copies of the following materials:

1. Student's application for admission;
2. Enrollment agreement;
3. Academic record;



4. Attendance record;
5. Financial payment record; and
6. Placement record.

(j) That the proprietary school shall be maintained and operated in compliance with all local, city, and county ordinances and state law, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises.

(k) That the proprietary school is financially sound and reasonably capable of fulfilling commitments to students for training and preparation.

(l) That the school shall have available, if requested by the board, a financial statement certified by an independent accountant, and a profit-loss statement certified by the owner as being true and current. The board may call for any or all of the above information.

(m) That the proprietary school does not utilize advertising of any type which is untrue, deceptive, or misleading and shall be able to document all advertised claims.

(n) That the chief executive officer, directors, owners, administrators, supervisors, and instructors are of good moral character as determined by the board.

(o) That the proprietary school adheres to a tuition refund schedule as presented in published form prior to enrollment if the student shall discontinue the training or be excluded therefrom.

(p) That the school shall prominently display its current license and the address and telephone number of the board office.

(q) That the proprietary school adheres to the other requirements consistent with the public interest as the board shall determine are necessary to improve the courses or programs of instruction or study offered by the school, and to prevent misrepresentation, fraud, and collusion in the offering thereof.

(2) The board may investigate, appraise, and evaluate from time to time any proprietary school now located, or which may be hereafter located, in this state. The investigation, appraisal, and evaluation shall be for the purpose of determining whether the proprietary school is maintained and operated or, in the event of a new proprietary school, whether the new proprietary school can be reasonably maintained and operated, in compliance with the provisions of this section. The investigation, appraisal, and evaluation shall include but is not limited to inspection of all records, books, and facilities at reasonable times and places without notice.

(3) If the board shall determine upon investigation, appraisal, and evaluation that a proprietary school located within this state is maintained and operated, or, in the event of a new proprietary school, that the school can be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section, the board shall issue a certificate to the proprietary school.

(4) If the board shall determine that any school is not maintained and operated, or cannot be reasonably maintained and operated, in compliance with the minimum standards prescribed by this section and the minimum requirements determined by the board, the board, after notice and an opportunity for a hearing to be conducted in accordance with KRS Chapter 13B, may deny the issuance of a certificate or may establish conditions in conformity with these provisions which shall be met by the school prior to issuance of a certificate. The board may issue a conditional license for up to a nine (9) month period of time.

#### **165A.380 Disposition of fees.**

All fees collected pursuant to these provisions shall be deposited in the State Treasury, trust and agency account of the State Board for Proprietary Education and be applied to the cost of administering KRS 165A.310 to 165A.410.

#### **165A.390 Revocation or suspension of permits and certificates of approval -- Conveyance of student records to board prior to discontinuance.**

(1) An agent's permit may be revoked by the board for fraud or misrepresentation in procuring or soliciting a student or prospective student for enrollment in a course or courses of

instruction or study offered or maintained by a proprietary school located within or without this state. An agent's permit may be revoked by the board for a false or misleading written or oral statement in the application therefor submitted by the applicant with the intent to mislead or conceal the truth.

(2) In the event that the certificate of approval of the proprietary school designated upon an agent's permit shall be suspended or revoked, or in the event said agent shall leave the employ of said approved proprietary school, the agent's permit shall be suspended by operation of law; provided, that the agent shall be given at least ten (10) days' written notice of said suspension, and of the suspension or revocation of the certificate of approval of said proprietary school; and provided further, that said agent shall be entitled to obtain a reissue of his agent's permit for the remaining unexpired period of time, without an additional fee, with another approved proprietary school designated thereon.

(3) A certificate of approval issued to a proprietary school may be suspended or revoked for the failure to maintain and operate a course or courses of instruction or study in compliance with the standards prescribed herein. A certificate of approval may be suspended or revoked by the board for a false or misleading written or oral statement submitted by the applicant proprietary school with the intent to mislead or conceal the truth.

(4) An agent's permit or the certificate of approval of a proprietary school may be suspended or revoked by the board for other valid reasons.

(5) A licensed proprietary school, prior to discontinuance of operation, shall convey all student records as required by the board to a location designated by the board. Said records may be retained in such a manner and for such a time as the board may designate.

#### **165A.400 Rules and regulations.**

The board shall have the authority to promulgate and adopt reasonable rules and regulations for the administration of the provisions of KRS 165A.310 to 165A.390.

#### **165A.410 Enforcement of law.**

The Attorney General may, at the request of the State Board for Proprietary Education or on his own motion, bring in a Circuit Court appropriate action for the enforcement of the provisions of this chapter. Any such action under this section may, at the discretion of the Attorney General, be brought either in the county in which the violation occurred or in the Franklin Circuit Court, or other appropriate court.

#### **165A.450 Licensed schools to contribute to a student protection fund.**

All licensed schools, resident and nonresident, shall be required to contribute to a student protection fund. The fund shall be used to pay off debts incurred due to the closing of a school. The amount each school shall contribute shall be the same amount as its licensing fee.

#### **165A.460 Proprietary schools that offer CDL training governed by this chapter -- Exceptions.**

All proprietary schools located or doing business in this state that offer CDL driver training shall be governed by the provisions of this chapter, except for matters governing:

(1) The curriculum which shall be established by the board in consultation with the Kentucky State Police and the Kentucky Community and Technical College System; and

(2) The inspection of CDL driver training school facilities which shall be under the authority of the Kentucky State Police pursuant to KRS 165A.475 and 332.095.

#### **165A.465 Criminal history background check for CDL trainers -- Fingerprinting -- Eligibility based on results -- Fees.**

(1) All persons initially applying for a license to operate a CDL driver training school or a license as a CDL driver training instructor, shall be required to undergo a state and national criminal history background check conducted by the Kentucky State Police. Application forms for a license to operate a CDL driver training school or a license as a CDL driver training instructor shall conspicuously state the following: "STATE LAW REQUIRES A STATE AND

NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF APPLYING FOR THIS LICENSE. ANY PERSON WHO REFUSES TO SUBMIT TO A CRIMINAL HISTORY BACKGROUND CHECK SHALL NOT BE ELIGIBLE TO APPLY FOR, OR BE ISSUED, A LICENSE TO OPERATE A CDL DRIVER TRAINING SCHOOL OR A LICENSE FOR A CDL DRIVER TRAINING INSTRUCTOR."

(2) All applicants shall be required to submit to being fingerprinted in accordance with administrative regulations promulgated by the Kentucky State Police under KRS Chapter 13A. If the applicant is a corporation, the fingerprints of all officers shall be required.

(3) The results of the state and national criminal history background checks shall be sent to the board for review within seventy-two (72) hours. If circumstances prohibit the results from being sent to the board within seventy-two (72) hours, the application shall not be processed further until the results are made available to the board. The board shall inform the applicant if, based upon the criminal history background check, the applicant is either eligible or ineligible to be issued a license to operate a CDL driver training school or a license for a CDL driver training instructor. The board shall promulgate administrative regulations under KRS Chapter 13A specifying the offenses and conditions under which an application shall be denied based upon a criminal history background check.

(4) Any fee charged by the Kentucky State Police to conduct a criminal history background check shall be paid by the applicant and shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter. Any fee charged to conduct a criminal history background check shall be an amount not greater than the actual cost of processing the request and conducting the search.

**165A.470 License to operate CDL driver training school -- Persons who may not be connected with school -- Requirements for school and instructors.**

(1) A person shall not operate, conduct, maintain, or establish a CDL driver training school unless the person holds a valid current license issued by the board. The following persons shall not be allowed to be connected in any capacity whatsoever with a CDL driver training school:

(a) Any person whose employment duties in any way relate to the issuance of a motor vehicle operator's license under KRS Chapter 186 or 281A;

(b) Any employee of the board, Justice Cabinet, or Kentucky State Police; and

(c) Any member of the immediate family of persons identified in paragraphs (a) and (b) of this subsection.

(2) A person shall not operate, conduct, maintain, or establish a CDL driver training school unless the school has:

(a) At least one (1) licensed CDL driver training instructor in its employ; and

(b) At least one (1) commercial motor vehicle owned or leased in the name of the CDL driver training school that is properly registered in the Commonwealth and that has undergone a safety inspection within the past twelve (12) months.

(3) A person shall not continue to operate a CDL driver training school if the board has suspended, revoked, canceled, or refused to renew the school's license.

(4) A person shall not act as an instructor for a CDL driver training school unless the person holds a valid current license as an instructor issued by the board and unless the person is employed by a licensed CDL driver training school.

**165A.475 Application to operate CDL driver training school -- Investigation by State Police -- Application to act as instructor -- Fees -- Determination of good moral character.**

(1) Any person seeking a license to operate, conduct, maintain, or establish a CDL driver training school shall apply to the board on forms prepared and furnished by the board.

The application shall include the following information: (a) The title or name of the school, the names of the owners of the school, and, if the owner is to be a corporation, the names and addresses of the officers of the corporation;

(b) Except for corporations, a statement that the owners of the CDL driver training school are each twenty-one (21) years of age or over, are residents of this state, and have been for at least one (1) year next preceding the application for the CDL driver training school license, and are each of good moral character;

(c) A description of the established place of business together with the hours during which the CDL driver training school is conducted and a description of the equipment and facilities used in CDL driver training;

(d) Evidence of liability insurance coverage of the CDL driver training school, the instructor, and students of the CDL driver training school while operating driver training school equipment. The insurance shall have minimum limits of not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident and subject to the limit for any one (1) person, fifty thousand dollars (\$50,000) for bodily injury or death of two (2) or more persons in any one

(1) accident and ten thousand dollars (\$10,000) for damage to the property of others in any one accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after ten (10) days prior notice in writing by the carrier to the board. Upon request by an applicant, the board shall review an application and provide a letter to the applicant that a proposed CDL driver training school has met all preliminary requirements for approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform CDL driver's training or to operate a school.

(2) Each original application for a license to operate a CDL driver training school and each application for renewal of a license to operate a CDL driver training school shall be accompanied by the payment of a fee of two hundred dollars (\$200) to the board and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter.

(3) The board shall pay the State Police to inspect and investigate CDL driver training schools under the requirements of subsection (4) of this section. The payment shall be an amount not greater than the actual cost of conducting the inspection and investigation.

(4) Upon receipt of an application for a license to operate a CDL driver training school, the board shall request the State Police to investigate the person's program and verify the information contained in the application. The State Police shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the State Police shall verify that the school meets the standards promulgated as administrative regulations under KRS Chapter 13A for license as a CDL driver training school. Upon request, the standards shall be furnished to the school by the board prior to the visit. If the standards are met, the school shall be licensed to offer instruction on how to operate a commercial motor vehicle including classifications, endorsements, and restrictions.

(5) Any person seeking a license to act as a CDL driver training instructor shall apply to the board on forms prepared and furnished by the board setting forth that the applicant is twenty-one (21) years of age or older; is of good moral character; is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license.

(6) Each original application for a license as a CDL driver training instructor and each application for renewal of a license as a CDL driver training instructor shall be accompanied by the payment of a fee of twenty dollars (\$20.00) to the board and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter.

(7) In making the determination of good moral character under this section, the board shall consider but shall not be limited to the following:

- (a) If the applicant has been convicted of a crime;
- (b) The age of the applicant at the time any criminal conviction was entered;
- (c) The length of time that has elapsed since the applicant's last criminal conviction; and
- (d) The relationship of any crime convicted to the ability of the applicant to operate a CDL driver training school.

**165A.480 License to operate school or act as instructor -- Posting and carrying of licenses.**

(1) Upon receipt of a satisfactory application accompanied by the prescribed fee, the board shall issue a license to the applicant.

(2) If the license is issued to a CDL driver training school, it shall be posted and at all times displayed in a conspicuous place so that all persons visiting the school may readily see the license.

(3) If the license is issued to a CDL driver training instructor, the person shall carry the license at all times during which the person is actually giving instruction to any student. Upon request, the instructor shall exhibit the license to any student taking instruction from him or her and to any other person authorized by law to examine operators' licenses.

**165A.485 Expiration and renewal of licenses -- Deposit of fees into State Treasury.**

(1) Every license issued for the operation of a CDL driver training school shall expire on June 30 following the date of the issuance unless revoked or canceled by the board.

(2) Before July 1 of each year every CDL driver training school shall apply for renewal of its license. The application shall be on forms prepared and furnished by the board.

(3) Every license issued to a CDL driver training instructor shall expire on June 30 following the date of the issuance unless revoked or canceled by the board.

(4) Before July 1 of each year every CDL driver training instructor shall apply for renewal of his or her license. The application shall be on forms prepared and furnished by the board.

(5) All fees collected under this chapter or the administrative regulations adopted pursuant to this chapter shall be paid into the State Treasury and credited to a trust and agency fund to be used in defraying the costs and expenses of the administration of this chapter. No part of this fund shall revert to the general funds of the Commonwealth.

**165A.490 Suspension, revocation, and refusal to issue license.**

The board shall, upon receipt of satisfactory evidence, suspend, revoke, refuse to issue, or refuse to renew the license of a CDL driver training school or a CDL driver training instructor if:

(1) The licensee fails or refuses to comply with the provisions of this chapter or any administrative regulation adopted hereunder;

(2) The licensee has made a false material statement or has concealed a material fact in connection with his or her application;

(3) The licensee or any partner, or other person directly interested in the CDL driver training school held a license issued under this chapter which was revoked or suspended and not reinstated;

(4) The licensee has been guilty of a fraudulent practice in attempting to obtain for himself or another a license to operate a motor vehicle;

(5) Written notice of the cancellation of insurance required by KRS 165A.475 is received by the board and the licensee does not present satisfactory evidence of insurance to the secretary prior to the effective date of the cancellation.

**165A.495 Hearing on suspension or revocation of license -- Written request -- Appeal.**

Any person whose license to conduct a CDL driver training school or any person whose license to give instructions in these schools has been suspended or revoked or the issue or renewal thereof is refused, may request a hearing. The request shall be in writing addressed to the board who shall conduct a hearing thereon as soon as possible. The hearing shall be conducted in accordance with KRS Chapter 13B. Any person may appeal from the final order of the board in the Franklin Circuit Court in accordance with KRS Chapter 13B.

**165A.500 Records kept by schools and instructors -- Retention requirements -- Confidentiality.**

(1) Every CDL driver training school and CDL driver training instructor shall maintain records showing the name, address, and instruction permit or operator's license number of each person to whom instruction is given. The records shall also indicate the type of instruction given and the length of time of the instruction.

(2) The records required by this section shall be maintained in a manner identical to the retention requirements the Kentucky Community and Technical College System complies with for student records under KRS Chapter 171. The records shall also be available for inspection by the board, but shall otherwise remain confidential.

**165A.505 Location of CDL driver training school.**

A CDL driver training school shall not be located within three hundred (300) feet of any governmental building in which is carried on any function having to do with the administration of any laws relating to motor vehicles.

**165A.510 Administrative regulations.**

The board shall, within thirty (30) days of April 9, 2002, promulgate administrative regulations under KRS Chapter 13A governing the following:

(1) Standards for CDL driver training school office facilities, branch office facilities, classroom facilities, and off-the-road testing facilities;

(2) Conflict of interest by persons associated with a CDL driver training school;

(3) Requirements for the testing and licensing of CDL driver training instructors, including qualifications for classroom instructors and off-the-road and on-the-road instructors;

(4) Maintenance and inspection of student instruction records, including documentation verifying the minimum course hours required under KRS 332.095 have been completed before the student is issued a release from the CDL driver training school;

(5) A schedule of fees or all charges made by the school including but not limited to administrative fees, registration fees, fees for classroom instruction, and fees for off-the-road and on-the-road training;

(6) Contracts and agreements involving CDL driver training schools;

(7) Advertising and solicitation of students by CDL driver training schools;

(8) Inspections of commercial motor vehicles used by CDL driver training schools, including mandatory equipment and out-of-service criteria;

(9) Insurance requirements for commercial motor vehicles used by CDL driver training schools; and

(10) Procedures for the suspension, revocation, nonrenewal, and denial of an application for licensure as a CDL driver training school or licensure as a CDL driver training instructor.

**165A.515 Application of chapter.**

(1) This chapter shall not apply to:

(a) Any school or educational institution which offers to full-time, regularly enrolled students as a part of its curriculum a course in driving instruction for the purposes of obtaining a Kentucky Class D driver's license issued under KRS Chapter 186;

(b) Automobile dealers and their salesmen who give instruction without charge to purchasers of motor vehicles; or

(c) Employers who give instruction without charge to their employees.

(2) This chapter shall not apply to any college within the Kentucky Community and Technical College System which offers to part-time students a course in driver's instruction where there is not a school licensed pursuant to this chapter in the county.

**165A.990 Penalties.**

(1) Any person, company, firm, corporation, association, society, or partnership, or any officer or employee thereof, who shall violate the provisions of KRS 165A.310 to 165A.410 shall be

guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed one hundred dollars (\$100), or by imprisonment in the county jail not to exceed six (6) months, or by both such fine and imprisonment. Each day's failure to comply with the provisions of KRS 165A.310 to 165A.410 shall be a separate violation.

(2) No note, negotiable instrument, or contract relating to payment for a course or courses of instruction shall be enforceable by any proprietary school in the courts of this state, unless said proprietary school and its agents shall have complied with the provisions of KRS 165A.310 to 165A.410.

**165A.992 Penalties.**

Any person who violates KRS 165A.470, 165A.480, 165A.500, or 165A.505 shall be fined not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300) or be imprisoned for not less than ten (10) days nor more than thirty (30) days, or both fined and imprisoned for each offense.

**332.095 CDL training schools -- Curriculum -- Evaluation -- Refresher course -- Ratio of students to instructors -- Drug test.**

(1) All CDL driver training schools, as defined in KRS 165A.310, shall offer a minimum one hundred sixty (160) hours of instruction to each student that has never been issued a CDL by any state. Each school shall be required to use the curriculum that has been approved by the State Board for Proprietary Education in consultation with the Kentucky State Police and the Kentucky Community and Technical College System. Each school shall perform an evaluation of each student and determine the student's skill level to operate a commercial motor vehicle as beginner, intermediate, or advanced. The curriculum shall require a minimum number of hours of instruction based upon a student's skill level.

2) Each school may provide the one hundred sixty (160) hour approved curriculum in a manner that best utilizes the staff and equipment of the school including, but not limited to, nights, weekends, holidays, and hours of operation.

(3) All CDL driver training schools, as defined in KRS 165A.310, may offer a refresher course of instruction to a resident who has one (1) year or more verifiable experience operating a commercial motor vehicle. The schools shall verify and maintain records documenting those students attending a refresher course. A refresher course may be offered on an hourly basis.

(4) The ratio of students to instructors during a one hundred sixty (160) hour course shall not exceed:

- (a) Thirty (30) students to one (1) instructor during classroom instruction;
- (b) Six (6) students to one (1) instructor during off-the-road training; and
- (c) Three (3) students to one (1) instructor during on-the-road training.

(5) All CDL driver training schools, as defined in KRS 165A.310, shall require each student to undergo a drug test at the time the person applies to enroll in the school.

# Kentucky Administrative Regulations

## **20 KAR 40:020. Standards for associate degree award.**

RELATES TO: KRS 165A.310(4), 165A.370(1)(e)

STATUTORY AUTHORITY: KRS 165A.340(3), 165A.400

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.370 requires that no school shall be issued a certificate of approval until the board shall have determined the school is in compliance with minimum standards leading to the awarding of an associate degree which indicates the satisfactory completion of a course of study.

Section 1. General Standards. (1) Any institution desiring to offer an associate degree must have been in operation and licensed in Kentucky for a continuous period of at least two (2) years and accredited by a nationally recognized accrediting agency recognized as such by the appropriate federal agency.

(2) Institutions seeking to award associate degrees shall offer the degree in accordance with all administrative regulations and requirements of the board.

(3) An institution shall clearly define its philosophy and objectives within the requested associate degree program and incorporate these definitions into a written statement.

(4) An institution shall clearly determine the potential job market availability for graduates of the associate degree program.

(5) The school may not offer to the public, advertise or enroll students in a new associate degree program until all necessary forms have been submitted to the board office for review and written authorization to initiate these activities received from the board office. At that time, an on-site visit of the proposed new degree program will be scheduled prior to the degree application being submitted to the full board for action. No classes in the program may commence before final board approval.

(6) If approval of the new degree program is granted, a second full-site visit will occur normally within sixty (60) days of the start of the first class. Expenses for all visitations will be borne by the institution.

Section 2. Associate of Arts or Associate of Science Degree. (1) The granting of associate of arts or associate of science degree is limited to accredited junior colleges accredited as such by a nationally recognized accrediting agency.

(2) The associate of arts or associate of science degree may be conferred upon a student who has completed a degree program comprised of a minimum of sixty (60) semester or ninety (90) quarter hours of study. Of the total credits a minimum of thirty (30) standard hours, or the equivalent quarter hours, shall be in the appropriate business, technical or other major field of study as indicated in the course title and description. A minimum of fifteen (15) standard semester, or the equivalent quarter hours, shall be required in general education subjects. General education shall include courses other than the core major offering and shall offer balance to the total program.

(3) At least one-half (1/2) of those subjects which are part of the curriculum in associate of arts or associate of science programs shall be taught by faculty members possessing graduate degrees, professional degrees, professional certification such as J.D., or M.D., or baccalaureate degrees plus professional certification such as CPA, P.E., or R.N. An exception to the requirement of an advanced degree may be justified for instructors of subjects in areas which are not normally academically credentialed or which are not normally credentialed with graduate degrees.

Section 3. Specialized Associate Degree. (1) The granting of specialized associate degree designated as the associate of applied science degree is limited to schools accredited by a nationally recognized accrediting agency or association recognized by the appropriate federal agency as a business or specialized school.

(2) The associate of applied science degree may be conferred upon a student who has successfully completed an approved course of study in a program comprised of a minimum of sixty (60) semester or ninety (90) quarter hours of credit. This degree does not require the inclusion of general studies courses, but general studies may be a part of the program.



(3) Faculty qualifications shall require that a minimum of a baccalaureate degree is held by faculty, or, that faculty possess the following alternate competency:

(a) Professional recognition in the specialized subject area indicated by licensure or certification.

(b) Postsecondary education or training plus at least two (2) years documented practical experience in the specialty.

Section 4. Additional Standards. (1) Additional standards applicable to all award granting institutions approved by this board include:

(a) The library holdings or resource center material shall include relevant periodical subscriptions and shall contain professionally accepted references in the field or fields of study which are appropriate for the program offered.

(b) The library or resource center must be accessible for students to use the materials and must provide check-out opportunity of materials at hours other than when classes are being taught.

(c) There shall be a staff member designated as responsible for the library or learning center and an adequate annual budget for support of the facility and acquisitions of library or learning resource materials must be provided.

(d) All equipment and training aids shall be relevant to the program offered and approved and be in sufficient quality and quantity to accommodate maximum student enrollment. The maximum enrollment shall be determined by available instructional space and qualified instructional personnel.

(e) The board shall provide a review of the program by a professional knowledgeable within the field being considered.

(f) The institution shall provide a listing of the course requirements for the degree and any and all prerequisites required.

(g) There shall be printed in an appropriate document a course description for each course that is required or which can be taken to meet the requirements for the degree and all other promotional literature used shall appropriately identify the correct title of the degree offered and advertised.

(h) Official transcripts, certifications, licenses, and other designations of faculty teaching in the degree program shall be on file at the institution and shall accompany any application for approval, where applicable.

(i) The institution shall have on file an appropriate and current course syllabus for each subject taught.

(j) The institution offering degrees shall provide the board or its evaluators with a copy of their last accreditation self-study and all correspondence with accrediting agencies.

(2) The applicant institution must make the following materials available to the team of evaluators at the time of the on-site visit:

(a) School catalog;

(b) Promotional literature used in program;

(c) Inventory of classroom equipment;

(d) Faculty files;

(e) Course syllabi;

(f) Copy of standard student file;

(g) Copy of standard personnel file;

(h) Total enrollment by program as of last start date;

(i) Organizational chart; and

(j) A list of all personnel indicating part-time and full-time employees.

**201 KAR 40:030. Procedures for hearings.**

RELATES TO: KRS Chapter 165A

STATUTORY AUTHORITY: KRS Chapter 13A, 165A.400

NECESSITY, FUNCTION, AND CONFORMITY: KRS 13A.100 requires an administrative body which is empowered to promulgate administrative regulations to prescribe the procedures to be utilized in the conduct of hearings unless the procedures are prescribed by a statute. KRS 165A.340(3) and 165A.400 authorize the board to promulgate administrative regulations. KRS 165A.350(4)(b), 165A.360(3)(b) and 165A.370(4) provide for hearings, but do not prescribe procedures. This administrative regulation establishes hearing procedures.

Section 1. Purpose and Rule of Construction. The purpose of this administrative regulation is to enable the state Board for Proprietary Education to conduct an orderly and reasonably expeditious search for the truth while ensuring that due process is afforded to the licensee, applicant and students. Accordingly, this administrative regulation shall be liberally construed so as to aid that process.

Section 2. Composition of the Hearing Panel. (1) Disciplinary actions shall be heard by a hearing panel consisting of three (3) members of the board and a hearing officer appointed by the board.

(2) A board member who has participated in the investigation of a disciplinary action, or who has discussed the merits of an action with the agency staff, or who has personal knowledge of the facts giving rise to a disciplinary action shall not sit on a panel hearing that particular action.

(3) Staff members of the board, legal counsel for the board and a court stenographer shall be present for the hearing.

Section 3. Rights of the Licensee or Applicant. The licensee or applicant shall have the right to be heard by the hearing panel, to be represented by legal counsel, to present evidence, to cross-examine witnesses presented by the board, and to make both opening and closing statements.

Section 4. Prehearing Disclosure of Evidence. (1) By the board. The licensee or applicant shall have the right to inspect the investigative file relating to a disciplinary action either in person or by legal counsel. The names, addresses and phone numbers of witnesses expected to be called by the board and copies of documentary evidence intended to be introduced at the hearing shall be furnished to the licensee or applicant, or his attorney if represented by counsel, at least ten (10) days prior to the scheduled hearing date. Nothing in this section shall be construed as giving the licensee or applicant the right to examine or copy the personal notes, observations, or conclusions of the board's investigators, nor shall it be construed as allowing access to the work product of legal counsel for the board. The licensee or applicant shall also be permitted to examine any items of tangible evidence in the possession of the board.

(2) By the licensee or applicant. At least ten (10) days prior to the scheduled hearing date, the licensee or applicant shall furnish to the investigator or legal counsel for the board copies of any documents which the licensee or applicant intends to introduce at the hearing, and a list of the names, addresses and home and work telephone numbers of any witnesses to be presented to the hearing panel by the licensee or applicant. The licensee or applicant shall produce for inspection any items of tangible evidence within his possession or control which he intends to introduce at the hearing.

(3) At least the (10) days prior to the scheduled hearing date, the licensee or applicant shall file with the board a sworn written response to the specific allegations contained in the notice of charges. Allegations not answered or denied shall be deemed admitted. The panel may for good cause permit the late filing of an answer.

(4) Sanctions for failure to comply with prehearing disclosure. If a party fails to comply with this section, the panel hearing the disciplinary action may refuse to allow into evidence the items or testimony that have not been disclosed, may continue the action to allow the opposing party a fair opportunity to meet the new evidence, or may make other orders as it deems appropriate. Sanctions shall be applied by the board members of the panel.

(5) Continuing duty to disclose. After disclosure has been completed, each party shall remain under an obligation to disclose any new or additional items of evidence or witnesses

which may come to its attention. Additional disclosure shall take place as soon as practicable. Failure to disclose may result in the exclusion of the new evidence or testimony from the hearing.

(6) Authority to issue subpoenas. The board or the hearing officer appointed by it shall have the authority to issue subpoenas for the attendance of witnesses and the production of papers and records.

Section 5. Order of Proceeding. (1) The hearing officer shall call the meeting to order, identify the parties to the action and the persons present and read the letter of notice and charges. The hearing officer shall ask the parties to state for the record any objections or motions. The board members of the panel shall rule upon any objections or motions. Opening statements shall then be made, with the attorney for the board proceeding first. Either side may waive its opening statement, but opening statements may not be reserved.

(2) The taking of proof shall commence with the calling of witnesses on behalf of the board. Witnesses shall be examined first by the attorney for the board, then by the licensee or applicant, or his attorney if represented by counsel, and finally by members of the hearing panel. Rebuttal examination of witnesses shall proceed in the same order. Documents or other items may be introduced into evidence as appropriate.

(3) Upon conclusion of the case for the board, the licensee or applicant shall call his witnesses. The witnesses shall be examined first by the licensee or applicant, or his attorney if represented by counsel, then by the attorney for the board, and finally by the members of the hearing panel. Rebuttal examination of those witnesses shall proceed in the same order. Documents or other evidence may be introduced as appropriate.

(4) At the conclusion of the proof, the parties shall be afforded the opportunity to make a closing statement, with the attorney for the board always proceeding last. The hearing officer may impose reasonable limitations upon the time allowed for opening and closing statements.

(5) The hearing officer shall enforce general rules of conduct and expedite the hearing by keeping the testimony and exhibits relevant to the case.

Section 6. Rules of Evidence. (1) The hearing panel shall not be bound by the technical rules of evidence. The hearing panel may receive any evidence which it considers to be reliable, including testimony which would be hearsay if presented in a court of law. Documentary evidence may be admitted in the form of copies or excerpts, and shall be authenticated only to the extent that the panel is satisfied as to its genuineness and accuracy. Tangible items may be received into evidence without the necessity of establishing a technical legal chain of custody so long as the board is satisfied that the item is what it is represented to be and that it is in substantially the same condition as it was at the time of the events under consideration.

(2) The panel retains the discretion to exclude any evidence which it considers to be unreliable, incompetent, irrelevant, immaterial or unduly repetitious. Rulings on objections to evidence shall be made by the board members of the panel.

Section 7. Recommendation by the Hearing Panel. (1) Upon the conclusion of the hearing, the panel shall retire into closed session for the purpose of deliberations. Each board member of the panel shall have one (1) vote.

(2) At the conclusion of the panel's deliberations, it shall propose an order based upon the evidence presented. The hearing officer shall draft a proposed decision including findings of fact and conclusions of law consistent with the panel's deliberations and a recommended order to be submitted to the full board. A copy of the proposed decision shall be sent to the licensee or applicant, or his attorney if represented by counsel, by certified mail, to all members of the board and to the attorney for the board.

Section 8. Written Arguments or Exceptions to a Proposed Decision. The licensee or applicant shall have twenty (20) days from the date the proposed decision is mailed to file with the board written arguments or exceptions to any portion of the proposed decision. The twenty (20) day period may be extended at the discretion of the board president in unusual circumstances. The attorney for the board shall have ten (10) days from the expiration of the period allowed to the licensee or applicant to file responses on behalf of the board.

Section 9. Decision by the Board. (1) At the next scheduled regular meeting or as soon thereafter as may be arranged, the board shall review the proposed decision and consider the

evidence presented, and, after consideration of any written arguments or exceptions which have been presented, shall make a final determination, as follows:

- (a) Adopt the proposed decision as submitted; or
  - (b) Modify the proposed decision as deemed necessary; or
  - (c) Remand the cause to the hearing panel for further evidence.
- (2) If the cause is remanded, the hearing panel shall:

- (a) Schedule another hearing to obtain additional evidence; and
- (b) The board shall consider the findings of fact and recommendations from the original hearing, any additional hearing and any additional written arguments or exceptions the parties have presented, and shall render its final decision in the case.

Section 10. Record to be Maintained. A transcript of the testimony taken during the hearing(s) shall be kept by the board. A copy of that transcript shall be available to the licensee or applicant from the court stenographer or, if the stenographer is unable to furnish a copy, from the board upon request and payment of the appropriate fee. A copy of the transcript of the hearings(s) shall be available to all board members. Any documents or exhibits introduced into evidence shall be kept with the transcript.

Section 11. Continuances. It is the policy of the board not to postpone cases which have been scheduled for hearings absent good cause. A request by a licensee or applicant for a continuance may be considered if communicated to the staff reasonably in advance of the scheduled hearing date and based upon good cause. The decision whether to grant a continuance shall be made by the board members of the panel. However, the burden is upon the licensee or applicant to be present at a scheduled hearing. Failure to appear at a scheduled hearing for which a continuance has not been granted in advance shall be deemed a waiver of the right to appear and the hearing shall be held as scheduled.

Section 12. Copy to be Provided to Licensee or Applicant. A copy of this administrative regulation shall be provided to the licensee or applicant prior to the hearing.

### **201 KAR 40:035. Student protection fund.**

RELATES TO: KRS 165A.450

STATUTORY AUTHORITY: KRS 13A.100, 165A.340(3), 165A.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.450 requires each school licensed by the Board for Proprietary Education to contribute to a student protection fund in an amount equal to its licensing fee. The statute mandates that the fund shall be used to pay off debts incurred due to the closing of a school, and this administrative regulation sets forth standards for distribution of the funds.

Section 1. Definitions. (1) "Board" means the State Board for Proprietary Education.

(2) "Schools" means all schools, resident and nonresident, licensed by the board.

(3) "Sponsor" means the original source of funds, whether student or entity, used to pay student charges for tuition, books, and fees.

(4) "Student enrolled" means a student currently enrolled and attending classes on a regular basis.

Section 2. Standards for Fund Distribution. (1) The board is to manage the student protection fund ("the fund"). The fund shall be used solely to provide restitution to each student enrolled who has suffered pecuniary loss, when:

- (a) A school closes, either voluntarily or involuntarily;
- (b) The student can no longer continue his education at the school; and
- (c) No viable alternative for full restitution is available, as determined by the board.

(2) Each fund distribution for restitution shall be made payable to the appropriate sponsor, as determined by the board. The amount to be refunded shall equal the actual amount of loans and cash that have been applied to tuition, books, and fees on behalf of the student's attendance at the school. If the claims resulting from a school closing exceed the balance in the fund, the board shall provide for a pro rata distribution of the fund balance.

(3) Whenever restitution is paid by the fund, the fund shall be subrogated to the amount of the restitution.

**201 KAR 40:040. Commercial driver license training school curriculum.**

RELATES TO: KRS 165A.330(1), 165A.370, 165A.460(1)

STATUTORY AUTHORITY: KRS 165A.340(3), 165A.510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.460(1) mandates that the Kentucky State Police and the State Board for Proprietary Education establish a curriculum for commercial driver license training schools in consultation with the Kentucky Community and Technical College System. This administrative regulation establishes the curriculum regarding standards for commercial driver license training schools.

Section 1. A commercial driver license training school shall adhere to the curriculum contained in the "Kentucky Commercial Driver License, Official Guidelines and Curriculum", August 2002 edition.

Section 2. A commercial driver license training school shall:

(1) Mandate that the student successfully completes an independent study program approved by the Professional Truck Driver Institute of America, Inc., before taking the skills examination to obtain a commercial driver license;

(2) Maintain the student's completed independent study program; and

(3) Score in the student's school record.

Section 3. A commercial driver license training school may offer a refresher course for persons with at least one (1) year, verifiable commercial driving experience, and shall maintain records of all persons taking the refresher course. The commercial driver license training shall:

(1) Assess the person's qualifications and skill level to determine the appropriate curriculum as contained in the "Kentucky Commercial Driver License, Official Guidelines and Curriculum;"

(2) Mandate that before a student of a commercial driver license training school licensed by the board completes the refresher course, that the person shall successfully complete an independent study program approved by the Professional Truck Driver Institute of America, Inc;

(3) Maintain the student's completed independent study program and score in the student's school record.

Section 4. A commercial driver license training school shall comply with drug testing of students in accordance with the United States Department of Transportation, Federal Motor Carrier Safety Administration Rule 49 C.F.R. 382.

Section 5. Incorporation by Reference. (1) "Kentucky Commercial Driver License, Official Guidelines and Curriculum", August 2002 edition, developed by the Kentucky State Police and the Kentucky Community and Technical College System as mandated by KRS 165A.460(1) is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board for Proprietary Education, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (30 Ky.R. 134; Am. 580; eff. 9-8-03.)

**201 KAR 40:050. Application for license for commercial driver license training school.**

RELATES TO: KRS 165A.330(1), 165A.370, 165A.450, 165A.465, 165A.470, 165A.475, 165A.480(1)

STATUTORY AUTHORITY: KRS 165A.340(3), 165A.510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.460-165A.515 mandates that the State Board for Proprietary Education establish an application procedure for commercial driver license training schools. This administrative regulation establishes the application procedures for commercial driver license training schools.

Section 1. Application for Kentucky Resident Commercial Driver License Training School. (1) Prior to establishment of a commercial driver license training school residing in Kentucky, the school owner(s) shall:

(a) Submit to the board a completed original and one (1) copy of the Application to Operate a Commercial Driver License Training School with supporting documentation, incorporated by reference;

(b) Pay the nonrefundable application fee of \$200 established in KRS 165A.475(2);

(c) Pay the nonrefundable initial licensure fee of \$300;

- (d) Pay the nonrefundable contribution to the Student Protection Fund of \$300;
- (e) Meet the requirements of Sections 3 through 5 of this administrative regulation.

(2) All fees shall be submitted by certified check or money order payable to the "Kentucky State Treasurer."

Section 2. Application for Non-Kentucky Resident Commercial Driver License Training School. (1) Prior to establishment of a commercial driver license training school not residing in Kentucky but recruiting, advertising, or otherwise doing business in Kentucky, the school's owner or owners shall:

(a) Submit to the board a completed original and one (1) copy of the Application to Operate a Non-Kentucky Resident Commercial Driver License Training School with supporting documentation;

(b) Pay the nonrefundable application fee of \$200 established in KRS 165A.475(2);

(c) Pay the nonrefundable initial licensure fee of \$900;

(d) Pay the nonrefundable contribution to the Student Protection Fund of \$900;

(e) Meet the requirements of Sections 3 and 4 of this administrative regulation.

(2) All fees shall be submitted by certified check or money order payable to the "Kentucky State Treasurer."

Section 3. State and National Criminal History Background Checks. (1) Any person, firm, partnership, association, educational institution, establishment, agency, organization, officers of a corporation, school director, commercial driver license instructor or agent that offers commercial driver license driver training shall undergo a state and national criminal history background check at the time of application to operate a school, and submit to being fingerprinted by the Kentucky State Police, on the fingerprint card supplied by the board with the Application to Operate a Kentucky Resident Commercial Driver License Training School or the Application to Operate a Non-Kentucky Resident Commercial Driver License Training School;

(2) Each fingerprint card submitted to the board shall be accompanied by a nonrefundable fee of thirty-four (34) dollars, payable by certified check or money order to the Kentucky State Treasurer.

Section 4. Evidence of Liability Insurance Coverage. Each application to operate a commercial driver license training school shall be accompanied by:

(1) Evidence of liability insurance coverage for the commercial driver license training school, the instructors, and students while operating driver training school equipment with liability insurance coverage as mandated by KRS 165A.475(1)(d);

(2) Verification of liability insurance coverage from its insurance company of the insurance policy to include a complete listing of all equipment, serial numbers, vehicle identification numbers covered by the liability insurance with subsequent liability insurance coverage changes filed with the board in writing within thirty (30) days of the subsequent change.

Section 5. Inspection and Investigation of Commercial Driver License Training School and Equipment. By memorandum of agreement with the board, the Kentucky State Police shall:

(1) Inspect each Kentucky resident commercial driver license training school facility and equipment which shall be recorded on forms provided by the Kentucky State Police and which forms shall be filed with the board.

(2) Investigate the commercial driver license training school and verify the contents of its application for licensure on forms provided by the Kentucky State Police and which forms shall be filed with the board.

Section 6. Denial of Application. (1) The board shall deny an application to operate a commercial driver license training school for:

(a) Failure to comply with the requirements of KRS 165A.460-165A.515;

(b) Failure to comply with the administrative regulations governing the application and operation of a commercial driver license training school.

(c) Failure to comply with KRS 165A.470(1)-(4) regarding persons connected in any capacity with commercial driver license training schools.

(2) The board may deny an application to operate a commercial driver license training school for lack of good moral character as mandated by KRS 165A.475(1)(b).

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application to Operate a Commercial Driver License Training School", August 2002 edition.

(b) "Application to Operate a Non-Kentucky resident Commercial Driver License Training School", August 2002 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board for Proprietary Education, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (30 Ky.R. 135; Am. 580; eff. 9-8-03.)

**201 KAR 40:060. Application for renewal of license for commercial driver license training school.**

RELATES TO: KRS 165A.330(1), 165A.370, 165A.485

STATUTORY AUTHORITY: KRS 165A.340(3), 165A.510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.485 mandates that the State Board for Proprietary Education establish an application for license renewal of commercial driver license training schools. This administrative regulation establishes the renewal procedures for commercial driver license training schools.

Section 1. Renewal Application for Kentucky Resident Commercial Driver License Training School. (1) On or before May 15 of each year, a licensed Kentucky resident commercial driver license training school shall:

(a) Submit to the board a completed original and one (1) copy of the Renewal Application to Operate a Commercial Driver License Training School with supporting documentation;

(b) Pay the nonrefundable renewal application fee of \$200 established in KRS 165A.475(2);

(c) Pay the nonrefundable renewal licensure fee of:

1. \$300 for licensed commercial driver license training schools for net tuition up to and including \$50,000; and

2. An additional fifteen (15) dollars for each \$10,000 in net tuition thereafter, not to exceed a total renewal fee of \$2,000;

(d) Meet the requirements of Sections 3 through 5 of this administrative regulation.

(2) All fees shall be submitted by certified check or money order payable to the "Kentucky State Treasurer".

Section 2. Renewal Application for Non-Kentucky Resident Commercial Driver License Training School. (1) On or before May 15 of each year, a licensed non-Kentucky resident commercial driver license training school not residing in Kentucky but recruiting, advertising, or otherwise doing business in Kentucky shall:

(a) Submit to the board a completed original and one (1) copy of the Renewal Application to Operate a Commercial Driver License Training School with supporting documentation;

(b) Pay the nonrefundable renewal application fee of \$200 established in KRS 165A.475(2);

(c) Pay the nonrefundable renewal licensure fee of \$900; and

(d) Meet the requirements of Sections 3 and 4 of this administrative regulation.

(2) All fees shall be submitted by certified check or money order payable to the "Kentucky State Treasurer".

Section 3. Evidence of Liability Insurance Coverage. Each renewal application to operate a commercial driver license training school shall be accompanied by:

(1) Evidence of liability insurance coverage for the commercial driver license training school, the instructors, and students while operating driver training school equipment with liability insurance coverage as mandated by KRS 165A.475(1)(d);

(2) Verification of liability insurance coverage from its insurance company of the insurance policy to include a complete listing of all equipment, serial numbers, and vehicle identification numbers covered by the liability insurance with subsequent liability insurance coverage changes filed with the board in writing within thirty (30) days of the subsequent change.

Section 4. Inspection and Investigation of Commercial Driver License Training School and Equipment. By memorandum of agreement with the board, the Kentucky State Police shall:

(1) Inspect each Kentucky resident commercial driver license training school including facility and equipment on forms provided by the Kentucky State Police and which forms shall be filed with the board;

(2) Investigate the commercial driver license training school and verify the contents of its renewal application for licensure on forms provided by the Kentucky State Police and which forms shall be filed with the board.

Section 5. Denial of Renewal Application. (1) The board shall deny a renewal application to operate a commercial driver license training school for:

(a) Failure to comply with the requirements of KRS 165A.460-165A.515;

(b) Failure to comply with the administrative regulations governing the application and operation of a commercial driver license training school;

(c) Failure to comply with KRS 165A.475(1)(d) regarding persons connected in any capacity with commercial driver license training schools.

(2) The board may deny a renewal application to operate a commercial driver license training school for lack of good moral character.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Renewal Application to Operate a Commercial Driver License Training School", August 2002 edition; and

(b) "Renewal Application to Operate a Non-Kentucky Resident Commercial Driver License Training School", August 2002 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board for Proprietary Education, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (30 Ky.R. 136; Am. 581; eff. 9-8-03.)

**201 KAR 40:070. Commercial driver license training school instructor and agent application and renewal procedures.**

RELATES TO: KRS 165A.330(1), 165A.350, 165A.370, 165A.465, 165A.470, 165A.475, 165A.480, 165A.485

STATUTORY AUTHORITY: KRS 165A.340(3), 165A.510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.460-515 mandates that the State Board for Proprietary Education establish standards for instructors and agents of commercial driver licensing schools including application and renewal procedures. This administrative regulation establishes the standards for instructors and agents including application and renewal procedures regarding commercial driver license training schools.

Section 1. Application for Commercial Driver License Training School Instructor and Agent. An applicant for a commercial driver license training school instructor or agent shall:

(1) Submit a completed original Application for a Commercial Driver License Training School Instructor, or submit an original Application for a Commercial Driver License Training School Agent;

(2) Submit two (2) recent photographs no larger than two (2) inches by two (2) inches;

(3) Pay the nonrefundable application fee of twenty (20) dollars established in KRS 165A.475(6);

(4) Pay the nonrefundable initial licensure fee of \$150;

(5) Successfully complete the written examination and skills examination administered by the Kentucky State Police; and

(6) Meet the standards of Section 2 of this administrative regulation.



Section 2. State and National Criminal History Background Checks. (1) An applicant for a commercial driver license instructor or agent and an applicant as a commercial driver license instructor or agent shall undergo a state and national criminal history background check at the time of application and submit to being fingerprinted by the Kentucky State Police, on the fingerprint card supplied by the board.

(2) Each fingerprint card submitted to the board shall be accompanied by a nonrefundable fee of thirty-four (34) dollars, payable by certified check or money order to the Kentucky State Treasurer.

Section 3. Application for Renewal of Commercial Driver License Training School Instructor or Agent. On or before May 15 of each year, a licensed commercial driver license training school instructor or agent, or a licensed commercial driver license training school on behalf of the instructor or agent, shall:

(1) Submit a completed original Renewal Application for a Commercial Driver License Training School Instructor, or submit a completed original Renewal Application for a Commercial Driver License Training School Agent;

(2) Submit two (2) recent photographs no larger than two (2) inches by two (2) inches;

(3) Pay the nonrefundable application fee of twenty (20) dollars established in KRS 165A.475(6); and

(4) Pay the nonrefundable renewal fee of \$150.

Section 4. All fees required by this administrative regulation shall be submitted by certified check or money order payable to the "Kentucky State Treasurer."

Section 5. (1) The following material is incorporated by reference:

(a) "Application for Commercial Driver License Training School Instructor" PE 0008, August 2002 edition;

(b) "Renewal Application for Commercial Driver License Training School Instructor" PE 0009, August 2002 edition;

(c) "Application for Commercial Driver License Training School Agent" PE 0010, August 2002 edition; and

(d) "Renewal Application for Commercial Driver License Training School Agent" PE 0011, August 2002 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board for Proprietary Education, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (30 Ky.R. 137; Am. 582; eff. 9-8-03.)

**201 KAR 40:080. Maintenance of student records, schedule of fees charged to students, contracts and agreements involving licensed commercial driver training schools, advertising and solicitation of students by commercial driver license training schools.**

RELATES TO: KRS 165A.330(1), 165A.370, 165A.500, 165A.510

STATUTORY AUTHORITY: KRS 165A.340(3), 165A.510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.500 and 165A.510 authorize the State Board for Proprietary Education to establish the standards for maintenance of student records, schedule of fees charged to students and refund policy, contracts and agreements involving licensed commercial driver license training schools, advertising and solicitation of students by commercial driver license training schools. This administrative regulation establishes these standards for commercial driver license training schools.

Section 1. Maintenance of Student Records and Student Roster. (1)(a) Each licensed commercial driver license training school shall maintain a permanent record of instruction given to each student to include the student transcripts, student written examination results, and student skills examination scores for so long as the commercial driver license training school holds a license or conducts business.

(b) If the commercial driver license training school discontinues operation, then the school shall comply with KRS 165A.390(5).

(2) The records to be maintained by the commercial driver license training school shall contain the following:

- (a) Name and address of the commercial driver license training school;
- (b) Name and address of the student;
- (c) The number of the student's instruction permit;
- (d) The number of the student's drivers license;
- (e) The type and date of instruction given, whether classroom or behind-the-wheel;
- (f) The printed name and signature of the instructor;
- (g) Student's completed enrollment application;
- (h) Student's completed student contract or enrollment agreement, including the student's signature and authorized school official's signature properly dated;
- (i) Financial documents signed by the student including the student's completed loan agreement and accurate record of all fees paid to the school and government agencies;
- (j) Student's attendance record;
- (k) Student's progress report;
- (l) Student's transcript including all grades received during course of instruction;
- (m) Student's completed independent self-study program, including grade;
- (n) Written examination and skills examination, including grade; and
- (o) Results of drug test.

(3) The school shall furnish each commercial driver license training student upon request of the student a copy of his or her student instruction record when he or she ceases taking instruction at the school.

(4) Each school shall create and maintain for each training class a student roster to be sent to the Kentucky State Police and the Kentucky Community and Technical College System during the first week of training that shall contain:

- (a) Complete name of student, including any known nicknames or aliases, if any;
- (b) Complete address of student;
- (c) Social Security number;
- (d) Date of birth of student;
- (e) Class D Kentucky driver license number;
- (f) Whether the student has previously enrolled in any commercial driver license training program, and if so, whether or not the student successfully completed the previous commercial driver license training program;
- (g) Whether the student is enrolled in the commercial driver license training program as a refresher course; and
- (h) The date the student is eligible for skills testing by the Kentucky Community and Technical College System.

(5) All student records, school facilities, and school equipment are subject to inspection by the board and its representatives upon request and without prior notice to the school.

Section 2. Schedule of Fees Charged to Students and Refund Policy. (1) Each licensed commercial driver license training school shall publish a schedule of fees charged to students for instruction to include:

- (a) Administrative fee;
- (b) Registration/application fee;
- (c) Tuition for instruction;
- (d) Commercial driver license permit fee;
- (e) Off-the-road and on-the-road training fees; and
- (f) Room and board costs.

(2) The schedule of fees shall be published:

- (a) In the school's catalog;
- (b) In the student contract or enrollment agreement; and
- (c) Within the school's facility by being conspicuously displayed at the school.

(3) Each licensed commercial driver license training school shall establish and adhere to a refund policy to be published:

- (a) In the school's catalog;
- (b) In the student contract or enrollment agreement; and

- (c) Within the school's facility by being conspicuously displayed at the school.
- (4) At least five (5) days before a prospective student signs a contract or enrollment agreement, the commercial driver license school shall provide to the prospective student:
  - (a) The school catalog;
  - (b) The student contract or enrollment agreement; and
  - (c) The student loan agreement, if any.

Section 3. Contracts and Agreements Involving Licensed Commercial Driver License Training Schools. (1) Each licensed commercial driver license training school shall:

- (a) File and maintain with the board an accurate and current list of those persons authorized by the school to execute student enrollment contracts and student tuition loan agreements on behalf of the licensed commercial driver license training school including a sample of each person's signature;
- (b) Provide to each student who enters a contract or agreement with a licensed commercial driver training school a copy of the signed contract or enrollment agreement; and
- (c) File the original of each student contract or enrollment agreement in the permanent student record maintained by the school.

(2) All contracts executed by the licensed commercial driver license training schools and its students shall contain the following information:

- (a) The name and address of the school. If the school is conducted under an assumed name or is operated by a corporation, partnership, or association, the contract or enrollment agreement shall contain the name of the individual owners or names of the officers of the corporation, association, or members of the partnership;
- (b) A statement containing the following text in at least fourteen (14) point font: "This constitutes the entire agreement between the school and the student. No verbal agreements or promises shall be recognized by either the school or the student.";
- (c) The school refund policy;
- (d) A signature and date line for the student and an authorized school official;
- (e) A complete description of all fees charged as set forth in Section 2 of this administrative regulation; and
- (f) A statement containing the following text in at least fourteen (14) point font: "The Kentucky Revised Statutes and Kentucky Administrative Regulations governing licensed commercial driver training schools are available at the facility upon request."

Section 4. Advertising and Solicitation of Students by Commercial Driver License Training Schools. (1) A person, school, institution, organization, company, association, or partnership shall not advertise or advertise to recruit students unless licensed by the board.

(2) A licensed commercial driver license training school shall not use any name other than its licensed name, nor shall it advertise or imply that it is "supervised," "recommended," "accredited," or "endorsed" by the State Board for Proprietary Education. A school may state "Licensed by the Kentucky State Board for Proprietary Education" in its advertisements.

(3) A licensed commercial driver training school shall not:

- (a) Claim nor imply that it guarantees employment upon successful completion of the program;
- (b) Guarantee or imply that it guarantees the student will receive a commercial driver license training permit or commercial driver license;
- (c) Make any false, misleading, or deceptive claims or guarantees of expected annual income or employee benefits;
- (d) Hold itself out as being any type of establishment other than an educational establishment;
- (e) Use a name that is like or deceptively similar to a name used by another commercial driver license training school;
- (f) Advertise or imply that instruction may be given to students who fail the program or examinations without charge to the student unless that instruction without examination is contained in the student contract or enrollment agreement; and
- (g) Advertise or solicit in the "help wanted" section of any newspaper or periodical.

(4) A licensed commercial driver license training school shall submit a copy of all advertisements and directory listings to the board at least thirty (30) days prior to the scheduled publishing date.

Section 5. Inspections of Commercial Motor Vehicles Used by Commercial Driver License Training Schools, Including Mandatory Equipment and Out-of-Service Criteria. (1) Annual inspection. The Kentucky State Police shall at least annually inspect all commercial driver license training vehicles. The school shall maintain a copy of the results of the inspection in the vehicle.

(2) In order to be approved, the vehicle shall be:

(a) Owned or leased by the licensed school;

(b) In safe operating condition;

(c) Not more than ten (10) years old for vehicles used for on-the-road instruction, and not more than (15) years old for vehicles used for off-the-road instruction;

(d) Included on the school's liability insurance policy as mandated by KRS 165A.475(1)(d);

(e) Equipped with seat belts as established by KRS 189.125;

(f) Equipped with functioning side-view and rear-view mirrors;

(g) Identified and clearly displayed on the front, sides, and rear of the vehicle, in letters not smaller than six (6) inches in height and in a color vividly contrasting with the color of the vehicle, the:

1. Name of the commercial driver license training school; and

2. Words "Student Driver."

(3) Expiration of safety inspection and notification of vehicle changes. The commercial driver license training school shall:

(a) Maintain proof that the vehicle is inspected by the board representative annually and passes the inspection;

(b) Remove from use any vehicle which has not passed the inspection by the Kentucky State Police; and

(c) File with the board written notice when a vehicle has been added or deleted from the school's motor vehicle fleet and have submitted to the board a revised insurance policy as mandated by KRS 165A.475(1)(d) no later than five (5) business days from the date that the vehicle was added or deleted from the school's motor vehicle fleet. (30 Ky.R. 139; Am. 583; eff. 9-8-03.)

**201 KAR 40:090. Complaint procedure against agents, commercial driver license training schools, uncredentialed agents, and uncredentialed commercial driver license training schools.**

RELATES TO: KRS Chapter 13B, 165A.330(1), 165A.350(4)(b), 165A.360(3)(b), 165A.370(2)-(4), 165A.490, 165A.495, 165A.510(10), 165A.990

STATUTORY AUTHORITY: KRS 165A.340(3), 165A.400, 165A.510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.510(10) authorizes the State Board for Proprietary Education to establish the procedures for making complaints against commercial driver license training schools licensed by the board, agents, and uncredentialed commercial driver license training schools. This administrative regulation establishes these standards for complaints.

Section 1. Definitions. (1) "Chair" means the chair or vice-chair of the board.

(2) "Charge" means a specific allegation contained in a formal complaint, as established in Section 4(3) of this administrative regulation issued by the board alleging a violation of a specified provision of KRS Chapter 165A or the administrative regulations promulgated thereunder.

(3) "Complaint" means a written allegation alleging misconduct by an agent or commercial driver license training school which might constitute a violation of KRS Chapter 165A, the administrative regulations promulgated thereunder, or another state or federal statute or regulation applicable to an agent or commercial driver license training school.

(4) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against a licensed commercial driver license training school or agent and

commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests a court to take action.

(5) "Informal proceeding" means a proceeding instituted during the disciplinary process with the intent of reaching a resolution of the matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(6) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by the Attorney General or the board.

(7) "Complaint committee" means the committee appointed pursuant to Section 8 of this administrative regulation.

Section 2. Receipt of Complaints. (1) A complaint may be submitted by an individual, organization, or entity. A complaint shall be in writing and shall be signed and certified as to its truth by the person offering the complaint. The board may file a complaint based on information in its possession. A complaint may be filed by an individual, organization, or entity with the board on a "Complaint Form" with an "Authorization for Release of All Pertinent Student Records to the State Board for Proprietary Education."

(2) Upon receipt of a complaint:

(a) A copy of the complaint shall be sent to the last known address on file with the board for the agent and commercial driver license training school named in the complaint along with a request for a written response to the complaint. The agent and commercial driver license training school shall file a written response with the board within ten (10) days from the date of receipt.

(b) Upon receipt of the written response of the agent and commercial driver license training school named in the complaint, a copy of those responses shall be sent to the complainant. The complainant shall have ten (10) days from the date of receipt to submit a written reply with the board to the responses.

Section 3. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the response, the complaints committee shall consider the complaint, responses, and complainant's reply to the responses, and other relevant material available and make a recommendation to the board. The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If, in the opinion of the board, a complaint does not warrant the formal investigation of a complaint against an agent or commercial driver license training school, the board shall dismiss the complaint and shall notify both the complainant and the agent and commercial driver license training school of the outcome of the complaint.

(3) If, in the opinion of the board, a complaint warrants a formal investigation against either an agent or commercial driver license training school, then the board shall authorize the executive director of the board or an investigator to investigate the matter and make a report to the complaints committee.

Section 4. Results of Formal Investigation; Board Decision on Hearing. (1) Upon completion of a formal investigation, the complaints committee shall consider the facts regarding the complaint. The committee shall review an investigative report, supporting documents, and make a recommendation to the board. The board shall determine whether there is enough evidence to believe that a violation of the law or administrative regulations may have occurred and whether a formal complaint shall be filed.

(2) If, in the opinion of the board, a complaint does not warrant the issuance of a formal complaint and the holding of a hearing, the complaint shall be dismissed or other appropriate action taken. The board shall notify both the complainant and the commercial driver license training school and agent of the outcome of the complaint.

(3) When in the opinion of the board a complaint warrants the issuance of a formal complaint against an agent or commercial driver license training school, then the complaints committee shall prepare a formal complaint which states the charge or charges to be considered at the hearing. The formal complaint shall be signed by the executive director and served upon the agent or commercial driver license training school as required by KRS 13B.040. If the formal complaint is against an agent, then the commercial driver license training school employing the agent shall be provided with a copy of the formal complaint.

Section 5. Uncredentialed School and Uncredentialed Agents. If, in the opinion of the board, a school may be operating as a commercial driver license training school without appropriate credential, or a person may be operating as an agent without appropriate credential, then the board may take any one (1) or a combination of the following actions:

(1) Issue a letter ordering that school or person cease and desist from the operation of a commercial driver license training school or the conduct of an agent;

(2) Forward information to the county attorney of the county of residence of the school or person allegedly acting without appropriate credential with a request that appropriate action be taken under KRS 165A.990; or

(3) Initiate action in Franklin Circuit Court for injunctive relief to stop the unauthorized operation of a school or agent.

Section 6. Settlement by Informal Proceedings; Letter of Admonishment. (1) The board, through counsel and the complaints committee, may enter into informal proceedings with the commercial driver license training school and agent who is the subject of the complaint for the purpose of appropriately resolving the matter.

(a) An agreed order or settlement reached through this process shall be approved by the board and signed by the commercial driver license training school or agent who is the subject of the complaint and the chair.

(b) The board may employ mediation as a method of resolving the matter informally.

(2)(a) The board may issue a written admonishment to the agent and to a commercial driver license training school if in the judgment of the board:

1. An alleged violation is not of a serious nature; and

2. The evidence presented to the board after the investigation and appropriate opportunity for the commercial driver license training school and agent to respond, provides an indication that the alleged violation did in fact occur.

(b) A copy of the admonishment shall be placed in the permanent file of the proprietary school and agent.

(c) Within thirty (30) days of receipt of an admonishment, the proprietary school or agent may file:

1. A response to the admonishment which shall be placed in the proprietary school or agent's permanent licensure file; or

2. A request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment, file a formal complaint, and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.

Section 7. Notice and Service Process. A notice required by KRS Chapter 165A or this administrative regulation shall be issued pursuant to KRS 13B.040 to the last known address on file with the board.

Section 8. Complaints Committee. The complaint committee shall:

(1) Be appointed by the chair of the board to:

(a) Review a complaint or investigative report; and

(b) Participate in an informal proceeding to resolve a formal complaint.

(2) Consist of three (3) persons, at least one (1) person to be a public member, who may be assisted by the executive director of the board and counsel to the board.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Complaint Form (July 13, 2001 edition);

(b) Authorization for Release of All Pertinent Student Records to the State Board for Proprietary Education (July 13, 2001, edition).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board for Proprietary Education, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (30 Ky.R. 141; Am. 584; eff. 9-8-03.)

**201 KAR 40:100. Standards for Kentucky resident commercial driver training school facilities.**

RELATES TO: KRS 165A.330(1), 165A.370, 165A.510(1)

STATUTORY AUTHORITY: KRS 165A.340(3), 165A.510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.510(1) authorizes the board to promulgate administrative regulations to set standards for CDL training school facilities. This administrative regulation establishes the board's policy regarding standards for Kentucky resident commercial driver training school facilities.

Section 1. The following standards shall apply to Kentucky resident CDL driver training school office facilities:

(1) A Kentucky resident CDL training school location shall have and maintain an established place of business in the Commonwealth of Kentucky.

(2) The established place of business of each Kentucky resident CDL driver training school shall:

(a) Be owned or leased by the driver training school;

(b) Regularly occupied; and

(c) Solely used by that driver training school for the business of:

1. CDL driver training instructions for hire;

2. Preparing members of the public for examination for a commercial motor vehicle operator's license; and

3. Instruction of knowledge and skills for entry level tractor and trailer drivers or commercial motor vehicle operators.

(3) The established place of business of each Kentucky resident CDL driver training school shall be located in a district zoned for business or commercial purposes. The Kentucky resident CDL driver training school office shall have a permanent sign displaying the licensed school name. If the classroom or training yard is at a different address, it shall also have a permanent sign meeting the same criteria.

(4) The established place of business or advertised address of any Kentucky resident CDL driver training school shall not consist of or include a house trailer, residence, tent, temporary address, office space only, a room or rooms in a hotel, rooming house or apartment house, or premises occupied by a single or multiple unit dwelling house. Furthermore, a modular building or structure for use as a classroom or office shall be permanently affixed to the property.

(5) The Kentucky resident CDL training school, office and classes shall be operated by responsible personnel during stated office hours and shall be open to inspection of the premises, facilities, records and vehicles by any authorized representative of the board during this time.

(6) The Kentucky resident CDL training school shall have a business telephone used exclusively for the operation of the driving school and operational during the stated office hours.

(7) A Kentucky resident CDL driver training school shall not transfer its license without filing the Application to Transfer Ownership of a Proprietary School, incorporated by reference, for prior approval of the board. There will be a \$500 fee for a transfer of ownership.

(8) Should a Kentucky resident CDL driver training school discontinue operations, the license and all student records shall be surrendered immediately to the board, at the expense of the licensee.

(9) A branch or satellite Kentucky resident CDL driver training school shall be licensed as an independent Kentucky resident CDL driver training school and meet all of the requirements of the board as provided for in KRS Chapter 165A and 201 KAR 40:040 to 201 KAR 40:090.

Section 2. The following standards shall apply to Kentucky resident CDL driver training school classroom facilities:

(1) The classroom facility of each Kentucky resident CDL driver training school shall be reasonably near its office facility and within thirty (30) minutes normal driving time of that facility.

(2) The classroom shall contain sufficient space and equipment to carry on the business of classroom instruction for students enrolled in the Kentucky resident CDL driver training school, and preparation of students for examination for a commercial motor vehicle operator's license.

(3) The classroom facility shall have adequate lighting, heating, ventilation, sanitation facilities, and shall comply with all state and local laws relating to public health, safety and sanitation.

(4) The classroom facility shall contain the following equipment and supplies:

(a) Individual desks or tables with writing surfaces for not less than eight (8) students;

(b) Adequate blackboards which are visible from all seating areas;

(c) Adequate charts and diagrams or pictures relating to the operation of commercial motor vehicles and traffic laws;

(d) One (1) of the following:

1. Overhead projector or multimedia projector; or

2. A thirty-five (35) millimeter slide projector and slides; or

3. A video/audio display screen of not less than nineteen (19) inches diagonal measure, capable of operation in conjunction with a video tape for providing driver training instruction; and

(e) All Kentucky Revised Statutes and administrative regulations governing CDL driver training schools, commercial motor vehicle operator license requirements and federal motor carrier rules and regulations, shall be prominently displayed so as to be accessible to applicants for enrollment and all students.

(5) In addition to the foregoing, the following are suggested teaching aids:

(a) A reaction time testing device;

(b) Peripheral vision testing device;

(c) Magnetic traffic boards; and

(d) Other devices that may aid in acquainting students with state and federal traffic laws and prepare them to safely operate commercial motor vehicles.

Section 3. Relocation of a Licensed Kentucky Resident CDL Driver Training School. Prior to relocating any Kentucky resident CDL driver training school office, classroom facility, behind-the-wheel training facility or location, or equipment thereof, the Kentucky resident CDL driver training school shall:

(1) Submit a completed Application to Change the Location of a Proprietary School;

(2) Submit documentation indicating the new location is in compliance with all fire and safety codes;

(3) Submit the required change of school location application fee of \$500 by certified check or money order made payable to the Kentucky State Treasurer; and

(4) Complete a successful inspection by the Kentucky State Police pursuant to the procedures outlined by KRS 165A.475(4).

Section 5. Incorporation by Reference. (1) "Application to Change the Location of a Proprietary School", 7/2003 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Proprietary Education, 911 Leawood drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (30 Ky.R. 143; Am. 585; eff. 9-8-03.)



